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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In re Applications of	)	
	)	
Martin W. Hoffman,	)	
Trustee-in-Bankruptcy for	)	File No. BRCT-881201LG
for Astroline Communications	)	
Company Limited Partnership	)	
	)	
For Renewal of License of Station WHCT-TV,	)	
Hartford, Connecticut	)	
	)	
and	)	
	)	
Astroline Communications	)	
Company Limited Partnership,	)	
Proposed Assignor	)	
and	)	File No. BALCT-930922KE
	)	
Two If By Sea Broadcasting	)	
Corporation,	)	
Proposed Assignee	)	
	)	
For Consent to the Assignment of License of	)	
Station WHCT-TV, Hartford, Connecticut	)	

TO: The Commission

REPLY OF SHURBERG BROADCASTING OF HARTFORD TO "RESPONSE TO PETITION TO DISMISS OR DENY APPLICATIONS FOR RENEWAL AND ASSIGNMENT OF LICENSE OF STATION WHCT-TV AND PETITION FOR IMMEDIATE GRANT OF APPLICATION OF SHURBERG BROADCASTING OF HARTFORD"

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January 26, 1994

SUMMARY

To the very limited extent that the Response of TIBS adds anything to this proceeding, it tends to confirm each and every one of the arguments which SBH has presented in its Petition herein. With respect to the "bare license" argument, TIBS concedes that SBH's statement of the legal principle is correct; to avoid the force of that principle, TIBS attempts to rely on a quibbling factual claim. But TIBS' factual claims underscore the fact that the proposed seller here has nothing to sell other than the "bare license". As a result, the statutorily-based, well-established "bare license" policy requires the dismissal of the above-captioned applications.

TIBS also asserts, in passing and without explanation, that SBH is somehow estopped from arguing that Astroline Communications Company Limited Partnership ("Astroline") committed repeated fraud before the Commission, the Court of Appeals and the Supreme Court in Astroline's successful effort to acquire the license of Station WHCT-TV. But since Astroline engaged in its plainly fraudulent consistently and continually before the Commission and the Courts, it was impossible for any party (or forum) to recognize and rule on the effect of that fraud on Astroline's qualifications. Thus, no estoppel can legitimately be said to have occurred.

While TIBS attempts to argue that its qualifications have been passed upon favorably by the Commission, the fact is that they have not, at least insofar as the serious questions concerning TIBS' principal, Micheal L. Parker, are concerned. As SBH has argued, while those questions need not be addressed if the above-captioned assignment application is dismissed (say, pursuant to the "bare license" argument), they would definitely have to be addressed and resolved otherwise.

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1. Shurberg Broadcasting of Hartford ("SBH") hereby replies to the "Response" of Two If By Sea Broadcasting Corporation ("TIBS") relative to SBH's "Petition to Dismiss or Deny Applications for Renewal and Assignment of License of Station WHCT-TV and Petition for Immediate Grant of Application of Shurberg Broadcasting of Hartford" ("SBH Petition"). As set forth below, TIBS' "Response" merely underscores the correctness of the relief sought by SBH.

2. In its Petition -- which was filed on November 3, 1993 -- SBH raised a number of arguments. In particular, SBH demonstrated that the current licensee of Station WHCT-TV, Martin W. Hoffman ("the Trustee"), Trustee in Bankruptcy for Astroline Communications Company Limited Partnership ("Astroline"), has nothing more than a "bare license" which, under well-established statutory and regulatory precedents, *CANNOT* be sold.

3. SBH also pointed out that dismissal of the above-captioned applications would permit the Commission to avoid otherwise necessary and extensive consideration of the threshold validity of the Trustee's (and Astroline's) claim to the WHCT-TV license. As noted by SBH, any claim at all which the Trustee has to the license derives from Astroline's claim to the license, since the Trustee effectively stands in Astroline's shoes. But, also as noted by SBH, Astroline's initial acquisition of the license was based on fundamental misrepresentations made by Astroline to the Commission, the U.S. Court of Appeals for the District of Columbia Circuit, and the U.S. Supreme Court. If the above-captioned applications were not dismissed, the role of Astroline's fraud and misrepresentation in its acquisition of the license, and the effect of that fraud and misrepresentation on the validity of that license, would have to be considered.

4. Third, SBH noted in passing that dismissal of the applications would permit the Commission to avoid an otherwise necessary hearing into the qualifications of TIBS' dominant principal, Micheal L. "Mike" Parker. In making this point, however, SBH stressed that it was not thereby seeking the designation of issues concerning Mr. Parker at that time, as the grant of the relief sought by SBH would moot out those issues and seeking such issues would thus be premature at this

time. See SBH Petition at n.10.

5. Finally, SBH demonstrated that dismissal of the above-captioned applications would not be inconsistent with the Commission's efforts to accommodate its policies with other federal policies.

6. Oppositions to the SBH Petition were due to be filed on or about November 18, 1993.

7. For his part, the Trustee has never bothered to respond in any way to any aspect of the SBH Petition. Nor has the Trustee requested any extension of the time within which to respond. SBH has separately petitioned for the dismissal of the above-captioned applications based on the Trustee's failure to prosecute those applications. SBH's petition, filed January 13, 1994, is pending.

8. For its part, TIBS sought two extensions of time through counsel, both of which were opposed by SBH. At the end of the second extension period, TIBS' counsel withdrew. Thereafter, TIBS, acting pro se, sought a third extension. And finally, sometime after January 10, 1994, TIBS filed its Response. [1/]

I. TIBS' RESPONSE CONFIRMS THE VALIDITY OF SBH'S "BARE LICENSE" ARGUMENT.

9. For all the time it took to prepare, TIBS' response is remarkably short of any substantive rejoinder to any of SBH's arguments. With respect to the primary, the core argument advanced by SBH -- i.e., that the Trustee has nothing more than a bare license which, statutorily, cannot be assigned -- TIBS effectively concedes that SBH's statement of the relevant legal standard is correct. Far from citing any authority of any sort contrary to the wealth of authority cited by SBH, TIBS

[1/] The signature page of the TIBS response hears the date of "January 10, 1994". Similarly, the certificate of service specifically states that TIBS mailed copies of its response out to, *inter alia*, counsel for SBH on the "10th day of January, 1994". However, the envelope in which undersigned counsel's copy arrived was clearly postmarked "Jan 11, 94". A copy of that envelope is included as Attachment A hereto for the Commission's inspection.

Rutting aside (at least for the moment) TIBS' apparent unwillingness or inability to assure an accurate certificate of service, SBH has calculated the due date of the instant reply on the basis of the January 11, 1994 postmark, *i.e.*, the date that service by mail on SBH was actually initiated. The total time for a reply under these circumstances is eight days, including five days for the reply and three because the TIBS response was served by regular mail. But that period does not include any intervening weekends or holidays (including, in particular, the two effective holidays of January 19 and 20, when the Commission was closed because of extreme weather conditions). Accordingly, the deadline for SBH's Reply is January 26, 1994.

acknowledges that an assignment does "not amount to more than an attempt to transfer a 'bare license'" when the proposed assignment features a "lack of equipment necessary to operate a broadcast station". TIBS Response at (unnumbered) 5.

10. Instead of criticizing SBH's legal analysis, TIBS attempts a factual distinction in an effort to avoid the "bare license" argument. But all that TIBS can claim is that some equipment is

> located at the [WHCT-TV] transmitter site (which equipment TIBS has been negotiating with the owners to purchase), along with the broadcast tower, antenna and downlinks. . . . It is TIBS' contention that the transmitter building, the tower and the downlinks are all leasehold improvements of the Lease. . . .

TIBS Response at (unnumbered) 5 (emphasis omitted). This represents a concession that SBH's bare license argument is indeed correct with respect to the instant situation. Recall, the crucial focus of the "bare license" analysis is on ***what the seller -- in this case, the Trustee -- has to sell.*** If all that the seller has to sell is a "bare license", then the Communications Act precludes any assignment:

> It is apparent that [the licensee] now ha[s] only a bare license, without the physical assets necessary to resume broadcast operation. . . . A bare license is not an asset which can be assigned for consideration. . . . Under these circumstances, the license is reduced to a nullity and its cancellation becomes a ministerial act not subject to the notice and hearing provisions of [the Communications Act].

E. Al Robinson, 33 R.R.2d 593, 595-596 (1968). [2/]

11. TIBS does ***not*** claim that the Trustee in fact holds any equipment at all which might be assigned, for it is well-established that the Trustee already transferred the station's physical assets more than a year ago. Instead, TIBS first claims that TIBS (not the Trustee) may have been negotiating for the purchase of some unspecified equipment owned by some unspecified entity or entities. But even if TIBS' claims in this regard were true -- and TIBS has offered no support for them other than its own principal's vague and self-serving allegation -- the point is that, whatever the

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[2/] *See also, e.g., Radio Station KDAN, Inc.*, 12 R.R.2d 584, 586 ("The pending assignment thus contemplates little more than the sale of a naked license. Commission policy bars such a *sale."); Omega Cellular Partners,* 5 FCC Rcd 7624, ¶7 (Mobile Services Division 1990) ("where a licensee has defaulted to its creditors, where it has no physical plant with which to offer service, and where it has allowed the station to remain dark, the Commission will not permit transfer of the bare license.")

source of that supposed equipment, it would not be coming from the Trustee (if, of course, it were coming at all -- TIBS asserts only that it "has been negotiating" [3]). Thus, even if those supposed "negotiations" were real, they would not alter the crucial, dispositive fact that the Trustee, the proposed assignee here, himself has ***nothing*** to sell ***other than a bare license.*** As SBH has previously demonstrated, such a sale is prohibited.

12. The second straw which TIBS' tries to grasp involves the transmitter site lease which TIBS claims to have acquired from the Trustee in connection with the proposed assignment. [4] But TIBS conveniently fails to advise the Commission that the lease which TIBS supposedly acquired expired in July, 1993, some six months ago. [5] Whatever good that lease might been prior to its expiration -- and SBH submits that a mere leasehold interest would not in and of itself be sufficient to avoid the "bare license" argument -- since the lease has since expired, it cannot be said to be of any value at all to anyone, particularly TIBS.

13. The bottomline here, then, is that TIBS' Response corroborates SBH's factual claims.

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[3] The Commission should also not lose sight of the fact that TIBS has been actively involved in an effort to acquire Station WHCT-TV for at least 9-10 months, and very possibly longer. Under these circumstances, TIBS' incredibly vague and non-specific claims about what it might try to do should demonstrate to the Commission the wholesale unreliability of TIBS' representations.

[4] TIBS self-servingly expands that lease to include a transmitter building, a tower and "downlinks". TIBS Response at (unnumbered) 5. But that claim is undermined by the fact that the lease itself does not specifically encompass such items, TIBS' fanciful and self-serving "contentions" to the contrary notwithstanding. Indeed, far from pointing to any documentary evidence substantiating this self-serving claim, TIBS can only assert weakly that "[i]t is TIBS' contention" that the lease -- assuming, *arguendo*, that it had not already expired months ago -- might involve some equipment. TIBS Response at (unnumbered) 5.

[5] The lease (a copy of which is included as Exhibit I to TIBS' Response) states that, upon 90 days notice by one of the parties, the lease will expire on July 22. See "Fourteenth Amendment of Lease", page 2, ¶1. The Lessor, Astroline Connecticut, Inc. ("ACI"), gave notice of termination on April 21, 1993, more than 90 days prior to July 22, 1993. See Attachment B hereto, which is a copy of a "Motion for Reconsideration" filed by the Trustee in the bankruptcy proceeding on April 26, 1993. In that Motion the Trustee himself recites, at Paragraph 7, that notice of termination of the lease was given on April 21, 1993. SBH understands that TIBS is in the process of litigating in U.S. District Court (presumably in the proceeding mentioned -- and misidentified with an apparently incorrect case number -- by Mr. Parker in his affidavit submitted with TIBS' Response) the question of whether that notice was effective. However, the fact that TIBS has been forced to litigate that issue conclusively demonstrates that, certainly for the time being and absent any contrary final disposition of that litigation, effective notice was given and the lease has therefore expired.

The Trustee has no assets to assign with the license. Any equipment which TIBS thinks it might obtain would ***not*** be obtained from the Trustee, and therefore would be irrelevant to the "bare license" argument. The only non-license item supposedly acquired by **TIBS** from the Trustee -- the former transmitter site lease -- is not in and of itself the type of asset which would, by itself, permit avoidance of the "bare license" argument, even if the lease were in full force and effect. And here the lease -- again, the only non-license item which TIBS might claim to have obtained from the Trustee -- expired last July, some six months ago. Whatever minimal value that lease might have had here for rhetorical purposes prior to its expiration, there can be no reasonable question but that the expiration of the lease renders that lease completely worthless here. In light of this, and particularly in light of TIBS' effective concession of both the factual and legal basis for **SBH's** "bare license" argument, it is clear that both the above-captioned applications can and should be dismissed.

II. SBH Is Not Estopped From Raising The Question Of The Blatant Fraud Which Resulted In The Initial Grant of Station WHCT-TV To Astroline.

14. With respect to the matter of Astroline's fraud which underlay the initial grant of the license which the Trustee proposes to assign here, TIBS asserts conclusorily that "SBH is estopped in this proceeding from raising an issue that it has already taken to the Supreme Court." TIBS Response at (unnumbered) 5. The problem with TIBS' position is that Astroline's fraud extended to and including its representations to the Supreme Court. It was not until after the Astroline bankruptcy proceeding was converted to Chapter 7 status in April, 1991, that a number of internal Astroline documents became available to SBH. Let's compare, for example, the various representations made to the Court of Appeals and the Supreme Court with what those documents show.

15. In its brief to the Court of Appeals, Astroline quoted the Commission's own standards for whether an entity was qualified to take advantage of the "minority distress sale" policy:

> Liited partnerships are designed to encourage trade by uniting parties who possess capital to invest with parties who are willii to expend their energies and efforts actively running a business. Since complete control and management rests with the general partner, the limited

> partner's investment is akin to that of a corporate shareholder who has limited liability and lacks a voice in the operation of the enterprise.

Astroline Brief in *Shurberg Broadcasting of Hartford, Inc. v. FCC,* filed May 30, 1985, at 40. According to Astroline in the immediately following sentence in its brief, "[i]t is undisputed that Astroline satisfies the literal terms of the Commission's test" quoted above. *Id.*

16. Elaborating on that theme, Astroline then asserted that

> [t]he members of the limited partnership supply only the station's financing, for which they will receive a return on their investment.

Id. at 42. Astroline also noted "[t]he limited participants' willingness to invest their money while conferring managerial and voting control of the station upon Mr. Ramirez", *Id.* Again according to Astroline,

> the Commission's primary definition of control has always included complete managerial responsibility for the operation of the station. [. . .] Mr. Ramirez possesses this complete operational control over the management of Astroline, and thus satisfies the basic test of control.

Id.

17. In its own brief to the Court of Appeals, the Commission relied on earlier Astroline's representations along the same lines. Agreeing that "complete managerial control over the station's operations" must be "reposed in the minority general partner", the Commission quoted Astroline's various representations that such control would be so reposed. See Brief of Federal Communications Commission in *Shurberg Broadcasting of Hartford, Inc. v. FCC,* filed May 15, 1985, at 35-36.

18. Both Astroline and the Commission adhered unflinchingly to these claims before the Supreme Court. For its part, Astroline continued to characterize itself as a "minority-controlled limited partnership" whose structure "complied with the FCC's established criteria for limited partnership's eligibility for distress sales." Astroline Brief in *Astroline Communications Company Limited Partnership v. Shurberg Broadcasting of Hartford,* filed February 9, 1990, at 13. It also plainly intimated that it was not itself a mere minority "front". *Id.* at 42. See *also* Commission

Brief, filed February, 1990, at 14.

19. Thus, all the Court of Appeals and the Supreme Court knew through 1990 was that, by golly, Astroline was completely controlled by a minority individual, while the non-minority principals of Astroline remained strictly limited partners, "lack[ing] a voice in the operation of the enterprise" (to use the Commission's own turn of phrase, which Astroline quoted to the Court of Appeals).

20. Review of Astroline's files in connection with the Chapter 7 phase of the bankruptcy litigation, however, shows just how inaccurate those representations were. Documents obtained by SBH from an inspection of the files of Station WHCT-TV have revealed the following:

-- an "Authority for Deposit and Borrowing", dated 1985, and executed by Fred J. Boling, Jr. as "General Partner" of "Astroline Communications Company Limited Partnership. This document, which establishes signature authority over certain financial accounts of Astroline at the State Street Bank and Trust Company in Boston, specifically identifies four authorized signatories on behalf of Astroline: Mr. Boling, Herbert A. Sostek, Joel A. Gibbs and Richard H. Gibbs, all of whom are specifically identified in the document as "General Partner[s]". Information which Astroline had submitted to the Commission reflects, by contrast, that these individuals were all principals of Astroline's *limited* partner. The name of Mr. Ramirez -- the supposedly controlling minority participant and the supposedly sole individual general partner -- does not appear on this document at all.

-- a letter, dated December 4, 1985, from Al Rozanski, the station's Business Manager, authorizing that "the collected balance" in the station's account be sent, by routine weekly wire transfer, to the State Street Bank in Boston.

-- a memorandum, dated May 28, 1986, from "Al" (presumably Mr. Rozanski) to "Richard" (presumably Mr. Ramirez) describing a revised approach to the station's payables. The new approach specifically includes the sending of payment requests "to Reading" in the form of "transmittal[s]". SBH understands that "Reading" is a reference to the headquarters of Messrs. Boling et al., *i.e.*, the non-minority, supposedly non-active participants in Astroline. In other words, not only were all of the station's "collected" funds being automatically forwarded, weekly, to a bank in Boston, but no station expenses could be paid unless approved, through the "transmittal" process, by Astroline's supposedly non-active, non-minority participants in Reading, a suburb of Boston.

-- a letter, dated May 29, 1986, from Mr. Ramirez to Mr. Boling, sending a copy of Mr. Rozanski's memo concerning the transmittal process. This letter expressly reflects Mr. Boling's involvement in the establishment of that process ('Thank you for your help in working this out"), as well as his Reading address. A copy ("cc") of this letter was apparently also sent to Mr. Sostek, another supposedly non-active participant in Astroline.

-- "transmittal" letters (including one dated July 21, 1988) from "Rich" (presumably Mr. Ramirez) to Mr. Boling reflecting that payment items sent to Reading for approval

included virtually all of the station's payables (such as routine supplies, taxes, insurance, program costs, personal expenses, etc.).

- 1987 tax materials for Astroline Company (the entity which supposedly held a 70% limited partnership interest in Astroline) and Mr. Ramirez. As of 1987, Mr. Ramirez continued to own a 21% overall ownership interest in Astroline, as far as the Commission had been advised. But according to these tax returns, Astroline Company actually owned 82.0286%, while Mr. Ramirez actually owned 0.7778 % .

- checks written on Astroline accounts over a period of years and signed by Messrs. Sostek and Boling, the supposedly non-active non-minority participants in Astroline. One such check, dated June 8, 1988, bears the printed legend "Astroline Communications Company Limited Partnership, 231 John Street, Reading, MA". That, of course, is Mr. Boling's address.

- a memorandum, dated November 10, 1988, from Baker & Hostetler (at the time, communications counsel to Astroline) specifically acknowledging that Astroline's business structure would not satisfy the Commission's standards for a true limited partnership because, *inter alia*, of the lack of restrictions preventing limited partners from involving themselves in the day-to-day operation of the business.

Copies of samples of these documents are included as Attachment C hereto.

21. These documents demonstrate conclusively that, in fact, Astroline was engaged in repeated, gross misrepresentations throughout the course of its litigation through the Commission, the Court of Appeals and the Supreme Court. There is absolutely no way in which any of these documents individually could be squared with Astroline's representations. Taken as a whole, these documents reflect an extended, uniform course of conduct -- from 1985 (the earliest days of Astroline's tenure at the station) all the way to 1988 (the year in which Astroline's Chapter 11 bankruptcy was initiated) -- which was completely inconsistent with the stories Astroline was telling the Commission and the courts over the same period.

22. How, after all, could Mr. Ramirez be said to "possess complete operational control" when all the station's money was automatically forwarded to accounts controlled by the supposedly non-active non-minority principals in Boston/Reading, when payment of all of the station's expenses required the prior approval of the supposedly non-active non-minority principals, when those supposedly non-active non-minority principals were identified as Astroline's *general partners* in the establishment of certain bank accounts, when at least one of Astroline's checking accounts featured as

a pre-prined address the address of none other than the supposedly non-active non-minority principals, when Astroline's own communications counsel advised it that its "limited partnership" structure was apparently not consistent with Commission policy? How could Astroline continually represent to the Commission that Mr. Ramirez owned a 21% equity interest in Astroline when it was reporting to the Internal Revenue Service that he actually owned less than 1 %?

23. Since these internal documents were unavailable to SBH, the Commission or the courts prior to now, it cannot be said that the issue of fraud and misrepresentation have been "taken to the Supreme Court", much less resolved by that Court (or any other court, for that matter). Thus, TIBS' limp estoppel argument is without merit. As SBH argued in its Petition, unless the above-captioned applications are dismissed pursuant to the "bare license" argument, the Commission will necessarily have to confront and address the fact that Astroline -- and its current representative, the Trustee -- acquired the license through sheer, demonstrable fraud.

III. QUESTIONS CONCERNING TIBS' BASIC QUALIFICATIONS WOULD HAVE TO BE CONSIDERED AND RESOLVED BEFORE THE ASSIGNMENT APPLICATION COULD BE GRANTED.

24. Finally, despite the relatively sparse nature of TIBS' arguments on the foregoing points, TIBS reacts with surprising vigor to an issue which SBH specifically disclaimed raising at this time, *i.e.,* the question of TIBS' own qualifications. [6] That question is itself a serious one in light of the track record, before the Commission itself, of Mr. Parker, TIBS' dominant principal.

25. Again, SBH is reluctant to raise and brief this issue now, since it appears premature in light of the fact that the entire issue of TIBS' qualifications may be rendered moot (at least for the purposes of this proceeding) through dismissal of the above-captioned applications. However, since TIBS characterizes SBH's arguments as "improper" and an "attempt at character assassination", SBH

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[6] Although it is somewhat garbled, TIBS' argument acknowledges that SBH's claims concerning the qualifications of TIBS and Mr. Parker can be raised at a later point, if the above-captioned applications were, *arguendo*, to

offers the following observations.

26. Rather than address the substance of the problems noted by the full Commission and the Review Board in *Mt.* Baker *Broadcasting Co., Inc., 3* FCC Rcd 4777 (1988), and *Religious Broadcasting* Network, 3 FCC Rcd 4085 (Rev. Bd. 1988), TIBS offers a listing of applications which the Commission has granted since 1988, all of which include Mr. Parker as a principal. TIBS' position seems to be that these subsequent actions demonstrate that the Commission has specifically considered and resolved, favorably to Mr. Parker, those problems. That position, of course, is simply incorrect.

27. As far as SBH has been able to determine from review of the Commission's records, each of the grants was made without opinion or comment, and without any express consideration of *the Mt. Baker* or *Religious Broadcasting* cases. The lack of such opinion, comment or consideration is not surprising, in light of the fact that the precise nature of the findings in those cases was never disclosed in any of the applications by Mr. Parker. To the extent those cases were mentioned at all, there was no suggestion that Mr. Parker's permittee had engaged in "an effort to deceive the Commission", *Mt. Baker,* 3 FCC Rcd at 4777, ¶8, or that Mr. Parker had been the "true kingpin" behind a fraudulent application which amounted to "a travesty and a hoax", "a transpicuous sham", *Religious Broadcasting*, 3 FCC Rcd 4085, ¶¶16, 18. Under these circumstances, since the Commission's processing staff generally relies on the representations of the applicants themselves, the staffs failure to recognize the existence of serious problems just below the surface is understandable.

28. This is especially true in view of the fact that, in at least one situation, the staff seems to have specifically asked for specific assurance that none of Mr. Parker's former applications involved character-related questions. In an October, 1992 amendment in File No. BALIB-920810OM (proposed assignment of international short-wave broadcast Station KCBI, Dallas, Texas), Mr. Parker "confirm[ed] that no character issues had been added or requested against those applicant when those applications were dismissed. " A copy of that amendment is included as Attachment D hereto.

29. The Commission can and must expect and demand a high level of truthfulness and candor from its applicants. Here, in at least two situations *(Mt. Baker* and *Religious Broadcasting)* in which Mr. Parker was involved, extraordinarly clear questions have been raised about the candor and truthfulness of Mr. Parker and/or entities related to him. [7] Those questions have never been fully explored and disposed of, presumably because of the carefully veiled, less-than-fully-candid manner in which Mr. Parker chose to characterize those earlier proceedings in his subsequent applications. Such gamesmanship in and of itself raises questions concerning Mr. Parker's (and, thus, TIBS') qualifications. Such gamesmanship also underscores the validity of the highly critical observations set out in *Mt. Baker* and *Religious Broadcasting.*

30. Whether or not the ultimate disposition of those character issues adverse to Mr. Parker would require the revocation of his various other media interests, the fact is that the above-captioned assignment application cannot in any event be granted without some such full inquiry and ultimate disposition. This is not "character assassination" or "dark threats" or an "improper attempt to prejudice these proceedings", as TIBS alleges. Rather, it is a simple statement of routine communications law. **SBH's** point is that the need to confront and resolve the questions of TIBS' basic qualifications can, and should, be avoided if the above-captioned applications are dismissed pursuant to the "bare license" argument. In its extremely defensive Response, TIBS offers no effective rebuttal to that point.

IV. CONCLUSION

31. SBH again urges the Commission to put a merciful end to this proceeding, which has already spanned one decade. The residents of Hartford should not be forced to forego an independent television service on Channel 18 while the Trustee and TIBS diddle around, flouting the Commission's processes and prolonging this proceeding ***ad infinitum*** and ***ad nauseam***. The fact is

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[7] *See also* ***Doylan Forney***, *3* FCC **Rcd** 6330, 6331-1 at **¶9 and** 6338 at **n.1** (Rev. Bd. 1988).

that the Trustee does not have anything which can be assigned consistently with the Communications Act. As a result, the above-captioned renewal and assignment applications should be dismissed, and SBH's application for a construction permit should be granted promptly. Any other result would add to the already unreasonable delay which the residents of Hartford, and SBH, have already had to suffer.

Respectfully submitted,

/s/ Harry F. Cole
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January 26, 1994

ATTACHMENT A

UNITED STATES POSTAL SERVICE
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AMOUNT
$2.36

U.S. POSTAGE
PAID
BUCKLEY, WA
98321
JAN 11 '94
00040560-03
20036

Harry F. Cole, Esquire
Bichter + Cole
1091 L Street, NW
Suite 250
Washington, DC 20036

ATTACHMENT B

UNITED STATES BANKRUPTCY COURT
DISTRICT OF CONNECTICUT

IN THE MATTER OF:	CHAPTER 7 PROCEEDING
ASTROLINE COMMUNICATIONS COMPANY LIMITED PARTNERSHIP,	CASE NO. 88-21124
DEBTOR	
ASTROLINE CONNECTICUT, INC.,	
Movant	Motion No.
v.	
MARTIN W. HOFFMAN, TRUSTEE,	
Defendant	April 26, 1993

MOTION FOR RECONSIDERATION

Martin W. Hoffman, the duly appointed, qualified and acting Trustee of the above-captioned estate, hereby moves, pursuant to Local Rule of Civil Procedure 9(e), for the Court to reconsider its oral order entered on April 15, 1993 granting Astroline Connecticut, Inc. relief from the automatic stay to file notice of termination of the Lease of 376 Deercliff Road, Avon and West Hartford, Connecticut between the Debtor and Astroline Connecticut, Inc. In support thereof, the Trustee represents the following:

1. On April 14 and 15, 1993, a hearing was held before the Court on the Trustee's Motion for Approval of Assumption

and Assignment of Non-Residential Real Property Lease; Trustee's Motion to Extend Time to Assume or reject Executory Contract: Trustee's Notice of Sale and Opportunity to make Higher Offer: Astroline Connecticut, Inc.'s Motion to Compel Trustee to Reject Lease; and Objections to the Sale by Robert & Martha Rose, Alan Shurberg, Astroline Connecticut, Inc., and Milton Hathaway.

2. On the second day of said hearing, the Court entered a preliminary order approving the assumption of the Lease of 376 Deercliff Road by the Trustee conditioned upon subsequent assignment, and also granted Astroline Connecticut, Inc. relief from the automatic stay upon the oral motion of its counsel, Robert A. Izard, Esq., and over the objection of the Trustee.

3. No formal, written motion for relief from the automatic stay was before the Court.

4. The Trustee did not receive any-prior notice of the oral motion for relief from stay in violation of 11 U.S.C. § 362(d)(2) and F.R.B.P. 4001(a).

5. Astroline Connecticut, Inc. made no showing by affidavit or verified motion that immediate and irreparable injury, loss, or damage will result to Astroline Connecticut, Inc. should relief from stay not be granted. See F.R.B.P. 4001(a)(2).

6. The Trustee was not given an opportunity to argue against the oral motion for relief from stay.

7. On or about April 21, 1993, Astroline Connecticut, Inc. allegedly sent a "Notice of Lease Termination and Lease Termination" to the Trustee, which act would otherwise be in violation of the automatic stay.

WHEREFORE, Martin W. Hoffman, Trustee, respectfully requests that the Court reconsider its oral Order granting Astroline Connecticut, Inc. relief from the automatic, stay, 'and enter an Order revoking the prior oral Order and declaring that all actions by Astroline Connecticut, Inc. subsequent to the oral Order in violation of the automatic stay be declared null and void, and any other further relief as is just.

MARTIN W. HOFFMAN,
TRUSTEE

BY Martin W. Hoffman

Martin W. Hoffman, Esq.
Attorney for the Trustee
50 Columbus Blvd.
Hartford, CT 06106
Tel. (203) 525-4287
Fed. Bar #ct06735

ATTACHMENT C

INSTRUCTIONS:

(1) The name of the secretary or clerk of the Corporation.
(2) The registered name of the Corporation.
(3) The State in which the Company is incorporated.
(4) The date of the Board of Directors meeting.
(5) The number of signers required on each check.
(6) The tiller of the individuals authorized to sign on the checking account.
(7) The number of signers required to sign notes when borrowing.
(8) The titles of individuals authorized to borrow.
(9) A certification of all the officers and authorized signers by name and title.
(10) Current date.
(11) The signature of the clerk or secretary.

AUTHORITY FOR DEPOSIT AND BORROWING

I,(1) Fred J. Boling, Jr. A General Partner ~~Secretary-Clerk~~ of
(2) Astroline Communications Company Limited Partnership ~~, a corporation~~
organized under the laws of the State of(3) Massachusetts do hereby certify that at ~~a meeting~~ by unanimous written consent of the General Partners of said Limited Partnership dated this ~~the Board of Directors of the corporation duly held on the~~ ~~at which a quorum was present and acting throughout~~ (4) day of 1985, the following resolutions were unanimously adopted, are in conformity with the Charter and By-Laws of this corporation and are in full force and effect:

RESOLVED: That State Street Bank and Trust Company, Boston. Massachusetts, (hereinafter called the Bank), its successors or assigns, be and hereby is designated a depository of this corporation, and is authorized and directed to pay and to charge to the account of this Limited Partnership ~~corporation~~ without limit as to amount and without inquiry as to circumstance of issue or disposition of the proceeds, even if drawn or endorsed to any signing or endorsing officer or other officer of this corporation or tendered in payment of the individual obligation of any such officer or for his credit or for deposit to his personal account, any and all checks, drafts. notes, bills of exchange, acceptances, or other orders for the payment of money upon the Bank, its successors or assigns. or payable at the office thereof and signed on behalf of this Limited Partnership ~~corporation~~ by any(5) one (number) of its following officers or authorized signers, to wit:

Insert Titles Only (6)

Herbert A. Sostek
Fred J. Boling, Jr.
Joel A. Gibbs
Richard H. Gibbs

RESOLVED: That any(7) one (number) of the following officers of this corporation, to wit:

Insert Titles Only (8)

Herbert A. Sostek
Fred J. Boling, Jr.
Joel A. Gibbs
Richard H. Gibbs

be and hereby are authorized from time to time to borrow from, or make arrangements for other extensions of credit by State Street Bank and Trust Company, Boston, Massachusetts, (hereinafter called the Bank), its successors or assigns. upon the credit of this Limited partnership ~~corporation~~ such sums of money as he or they may deem expedient for the purposes of this corporation.

That said officers be further authorized:

To discount any bills or notes receivable or other paper held by this limited partnership ~~corporation~~ and to endorse the same in the name of this limited partnership ~~corporation~~.

As security for any loan, credit or other accommodation to [illegible] said Bank any or all of the property of this [illegible]

[illegible]

To authorize the Bank, its successors or assigns, [illegible] security for money to be [illegible]

To authorize the Bank, its successors or assigns, [illegible] Bank as agent or otherwise, and either for immediate or future [illegible] of stocks, bonds, commodities, foreign exchange or any other [illegible]

And in connection with any of the foregoing, to make, execute, and deliver in the name of this [illegible] any and all checks, drafts, notes, bills of exchange, letters of credit, acceptances, assignments, transfers, endorsements, guarantees, agreements, trust receipts, instructions, obligations, or documents whatsoever in form satisfactory to State Street Bank and Trust Company its successors or assigns.

RESOLVED: That the General Partner, limited partnership ~~Secretary-Clerk~~ of this limited partnership ~~corporation~~ be and hereby is authorized to certify to State Street Bank and Trust Company, its successors or assigns, that these resolutions have been duly adopted and that they are in conformity with the certificate of limited partnership of this Limited Partnership ~~Articles of Organization~~ and shall remain in full force and effect until notice in writing of revocation or modification signed by the A General Partner ~~Secretary-Clerk~~ of this corporation be delivered to said Bank.

I further certify that the present General Partner's ~~Board~~ of this Limited Partnership ~~corporation~~ are as follows:

NAME	TITLE
Herbert A. Sostek	General Partner
Fred J. Boling, Jr.	General Partner
Joel A. Gibbs	General Partner
Richard H. Gibbs	General Partner

IN WITNESS WHEREOF, I hereunto set my hand and the seal of this corporation this day of(10) 19

(11) Fred J. Boling, Jr., General Partner ~~Secretary-Clerk~~

SSBZ0185C REV 4-74 ED 7-75
PKG100

December 4, 1985

Mr. Bill Blair
Cash Management
Office Towers #2
Waterbury, Ct.

Dear Sir:

Please accept this as our letter of authorization to wire transfer the collected balance in our account to:

State Street Rank
225 Franklin Street
Boston, Mass 02110
Att:-Mr. Thomas Pyies

Our account # is 0233024-e. This is to be transferred every Friday effective December 13, 1985.

Thank you for your attention in this matter.

Very truly yours.

Al Rozanski

Al Rozanski
Business Manager

AR/tlw

INTEROFFICE MEMO

To: Richard
From: Al
Date: May 28, 1986
Subject: A/P PROCEDURES

The following is an outline of our new Accounts Payable procedure describing invoice processing. As invoices are received by the Business Department, they will be verified as usual and then sent on to the respective department heads for approval. Upon return to the Business Department, they will be coded and approved by myself. Invoices will then be forwarded to you for final approval. ALL invoices will be computer inputed with the appropriate net days due information. This process will enable us to generate a net due listing to appropriately age our payables. The invoices will then be sorted as follows:

1. ALL T & E, freelance compensation, employee reimbursements and any other priority payments will be pulled, "transmittalized" and sent directly to Reading for immediate processing.

2. ALL other invoices will be held in our open items file alphabetically until payment is needed.

As invoices become due, they will continue to be "transmittalized" as before by invoice type. ALL film will appear separately, as will personal reimbursements and priority process items.

The forementioned procedures will enable us to not only age our payables more effectively, but also expedite month-end closes. We are striving to issue monthly financials during the week immediately following a month-end.

AR/snh

cc: Michael